

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of

Joint Application by BellSouth Corporation,
BellSouth Telecommunications, Inc.,
and BellSouth Long Distance, Inc. for
Provision of In-Region, InterLATA Services
in Florida and Tennessee

WC Docket No. 02-307

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**REPLY IN SUPPORT OF APPLICATION BY BELL SOUTH FOR PROVISION
OF IN-REGION, INTERLATA SERVICES IN FLORIDA AND TENNESSEE**

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GLOSSARY OF 271 ORDERS

<i>Five State Order</i>	Memorandum Opinion and Order, <i>Joint Application by BellSouth Corporation, et al., for Provision of In-Region, InterLATA Services in Alabama, Kentucky, Mississippi, North Carolina, and South Carolina</i> , WC Docket No. 02-150, FCC 02-260 (rel. Sept. 18, 2002)
<i>GA/LA Order</i>	Memorandum Opinion and Order, <i>Joint Application by BellSouth Corporation, et al., for Provision of In-Region, InterLATA Services in Georgia and Louisiana</i> , 17 FCC Rcd 9018 (2002)
<i>KS/OK Order</i>	Memorandum Opinion and Order, <i>Joint Application by SBC Communications Inc., et al., for Provision of In-Region, InterLATA Services in Kansas and Oklahoma</i> , 16 FCC Rcd 6237 (2001), <i>remanded in part, Sprint Communications Co. v. FCC</i> , 274 F.3d 549 (D.C. Cir. 2001)
<i>Maine Order</i>	Memorandum Opinion and Order, <i>Application by Verizon New England Inc., et al., for Authorization to Provide In-Region, InterLATA Services In Maine</i> , 17 FCC Rcd 11659 (2002)
<i>Massachusetts Order</i>	Memorandum Opinion and Order, <i>Application by Verizon New England Inc., et al., For Authorization to Provide In-Region, InterLATA Services in Massachusetts</i> , 16 FCC Rcd 8988 (2001), <i>appeal pending, WorldCom, Inc. v. FCC</i> , No. 01-1198 (and consolidated cases) (D.C. Cir.)
<i>New Jersey Order</i>	Memorandum Opinion and Order, <i>Application by Verizon New Jersey Inc., et al., for Authorization To Provide In-Region, InterLATA Services in New Jersey</i> , 17 FCC Rcd 12275 (2002)
<i>New York Order</i>	Memorandum Opinion and Order, <i>Application by Bell Atlantic New York for Authorization Under Section 271 of the Communications Act to Provide In-Region, InterLATA Service in the State of New York</i> , 15 FCC Rcd 3953 (1999), <i>aff'd, AT&T Corp. v. FCC</i> , 220 F.3d 607 (D.C. Cir. 2000)

<i>Pennsylvania Order</i>	Memorandum Opinion and Order, <i>Application of Verizon Pennsylvania Inc., et al., for Authorization To Provide In-Region, InterLATA Services in Pennsylvania</i> , 16 FCC Rcd 17419 (2001), <i>appeal pending</i> , <i>Z-Tel Communications, Inc. v. FCC</i> , No. 01-1461 (D.C. Cir.)
<i>Rhode Island Order</i>	Memorandum Opinion and Order, <i>Application by Verizon New England Inc., et al., for Authorization To Provide In-Region, InterLATA Services in Rhode Island</i> , 17 FCC Rcd 3300 (2002)
<i>Texas Order</i>	Memorandum Opinion and Order, <i>Application by SBC Communications Inc., et al., Pursuant to Section 271 of the Telecommunications Act of 1996 To Provide In-Region, InterLATA Services In Texas</i> , 15 FCC Rcd 18354 (2000)
<i>Vermont Order</i>	Memorandum Opinion and Order, <i>Application by Verizon New England Inc., et al., for Authorization To Provide In-Region, InterLATA Services in Vermont</i> , 17 FCC Rcd 7625 (2002), <i>appeal pending</i> , <i>AT&T Corp. v. FCC</i> , No. 02-1152 (D.C. Cir.)

INTRODUCTION AND EXECUTIVE SUMMARY

The record in this proceeding, including, importantly, the Department of Justice's ("DOJ") Evaluation, confirms that this Joint Application is as strong as -- in fact, stronger than -- any other section 271 application that BellSouth has ever filed. For instance, this is the first BellSouth application to be supported by BellSouth's highly successful completion of the Florida Third-Party Test as well as the equally strong results of the Georgia Third-Party Test. As BellSouth has explained, CLECs have repeatedly singled out the Florida test as extraordinarily thorough and demanding -- "the best in the country," according to WorldCom.¹ BellSouth's excellent performance on that test, in combination with the positive results of the Georgia test that this Commission has twice relied upon, provides powerful additional evidence that BellSouth provides a nondiscriminatory OSS.

Similarly, the record here now contains particularly persuasive state commission evaluations that confirm both BellSouth's statutory compliance and continued improvement in the few areas of concern. It is common ground here that the Florida Public Service Commission ("Florida PSC" or "FPSC") devoted years of concentrated efforts to, in the DOJ's words, "a comprehensive and rigorous review of BellSouth's compliance with Section 271 that was designed with substantial input from the CLECs." *DOJ Eval.* at 2. As a direct result of these intensive efforts, the FPSC has provided this Commission with more than 400 pages of cogent and exhaustive analysis. This Commission should give enormous weight to the FPSC's

¹ Staff OSS Recommendation at 14, *Consideration of BellSouth Telecommunications, Inc.'s Entry into InterLATA Services Pursuant to Section 271 of the Federal Telecommunications Act of 1996*, Docket Nos. 960786B-TL & 981834-TP (FPSC Aug. 23, 2002) (quoting WorldCom statement) (App. C -- FL, Tab 60).

Consultative Opinions' well-supported conclusion that BellSouth has met all legal requirements for section 271 relief, as well as to the similar conclusion in the thorough Advisory Opinion of the Tennessee Regulatory Authority ("TRA"). These recommendations, of course, are in addition to the similar judgments of all seven other state commissions in BellSouth's region, and this Commission's own conclusion twice this year that BellSouth's region-wide systems meet all section 271 requirements.

The CLEC comments themselves also confirm the strength of this Application. Many issues that CLECs raise -- for instance, Mpower's argument about partial migrations, Covad's assertions about mechanization of certain loop orders, and Network Telephone's claim about provision of DSL over UNE-P lines -- have already been rejected by this Commission. Other claims are overblown and have no competitive impact. For instance, AT&T argues about requiring provisioning orders for connecting facility assignments, even though it has almost never used that process. Still other claims are simply factually wrong, such as Covad's arguments about alleged preferential treatment of BellSouth's non-CLEC customers. The fact that CLECs are now reduced to making such claims strongly fortifies the conclusion that BellSouth's performance continues to improve and that there are, in fact, no barriers to CLEC competition.

The DOJ's Evaluation also demonstrates that this Application is as strong as, if not stronger than, the other BellSouth applications that this Commission has approved. The DOJ emphasizes that BellSouth's OSS performance in areas of interest has "improv[ed]" further *beyond* the level that this Commission has already twice concluded satisfies all legal requirements. *DOJ Eval.* at 9. In particular, the DOJ states unequivocally that "BellSouth continues to make progress" in significant components of its OSS. *Id.* at 6. The DOJ thus

concludes that CLECs have an “opportunity to compete” with BellSouth and recommends that the Commission approve this Application subject to review of a few issues that the DOJ suggests that this Commission “monitor.” *Id.*

BellSouth welcomes this Commission’s monitoring and review as to these few discrete areas. BellSouth is confident that, after that review, the Commission, like the DOJ, will conclude that BellSouth has continued to improve its already-compliant performance in these areas and that CLECs in fact have a meaningful opportunity to compete in Florida and Tennessee. For instance, BellSouth will demonstrate here that it has satisfied the DOJ’s concern about devoting sufficient change capacity to CLEC priorities by devoting approximately ***80% of production capacity in 2003 to implementing CLEC changes*** -- far above the 50% required by the plan that both the Florida PSC and the Georgia PSC have approved, and that this Commission and the DOJ have viewed favorably. BellSouth’s decision to devote extra capacity to CLEC priorities, moreover, responds directly to this Commission’s suggestion in the *Five State Order* (at ¶ 196). Because of BellSouth’s efforts, even WorldCom now acknowledges that most CLEC priorities are scheduled for implementation by the end of 2003. *See WorldCom Comments* at 3.

Similarly, BellSouth will show that it has adhered carefully to CLEC priorities, and scheduled lower prioritized items in response to system constraints and in order to maximize prompt implementation of CLEC requests when there was no capacity for higher priority items. BellSouth’s attempts to implement *more* CLEC change requests promptly is hardly inconsistent with ensuring CLECs a meaningful opportunity to compete.

BellSouth also devotes considerable resources to pre-release testing, minimizing defects in releases, and quickly correcting any arguably significant defects when they do occur. As the

Commission noted in the *Five State Order* (§ 200), “BellSouth has adopted practices to minimize defects in future releases.” Because of these practices, BellSouth’s most recent software release, Release 10.6, “contains proportionately fewer defects than other recent releases.” *Id.*

Additionally, as a result of its commitment to extensive pre-release testing to identify potential defects, BellSouth has discovered a high number of defects in the software package that BellSouth has received from its independent vendor, Telcordia, for the next production release (Release 11.0). After thoroughly examining alternatives, BellSouth has determined that, consistent with the change control plan, the release should not go into production as currently scheduled (on December 8, 2002). BellSouth will present CLECs with two choices to determine their preference for how to proceed. Under one option, the release will be delayed three weeks, and one CLEC request, UNE-to-UNE bulk migration (which was ranked 8th on the CLEC “Top 15” list), will be implemented in March. Under the other alternative, the entire release would be implemented on January 19, 2003. Additionally, because BellSouth is committed both to minimizing defects and to implementing CLEC priorities quickly, it will also offer an interim manual spreadsheet process, similar to that employed by Verizon and SBC for UNE-to-UNE migrations, until the change request is implemented. Accordingly, BellSouth still will implement 14 of the Top 15 requests this year, and most CLEC priorities by the end of 2003. By any measure, the implementation of these further change control improvements, which go beyond the capabilities that this Commission has found already checklist-compliant, gives CLECs a meaningful opportunity to compete.

BellSouth also will not implement retail capabilities that create discrimination against BellSouth’s wholesale CLEC customers. As noted above, Covad is simply wrong in asserting

that BellSouth has put in place ordering functionalities for non-CLEC orders that are unavailable to CLECs.

The record here also should allow the Commission to satisfy itself that BellSouth's reposting policy is fully consistent with BellSouth's commitment to providing accurate performance data. The key point is that repostings are not BellSouth's exclusive, or even primary, mechanism for notifying regulators and CLECs of potential errors in the data. Rather, as BellSouth demonstrated in the Five State proceeding, it has an established, state commission-approved process to provide advance notification of all changes needed to correct data errors, BellSouth's data are subject to continuing third-party audits that also will reveal any data issues, and BellSouth engages in data reconciliations with individual CLECs. BellSouth also has a long track record of revealing known data errors in its filings with this Commission and with state regulators that continue to monitor these issues. To ensure that BellSouth continues to notify interested parties of data issues, starting on December 1, 2002, BellSouth will provide to all state commissions a list of validated errors affecting results that are not captured on a data notification or by reposting in addition to the notification policy. BellSouth's reposting policy is a reasonable -- although likely not a necessary -- supplement to these other mechanisms, and it provides substantial additional information to interested parties. In sum, BellSouth does not "hide" data errors, cannot do so, and will not do so in the future.

* * * * *

The remainder of this Reply is organized as follows. Part I explains that BellSouth's OSS performance remains strong and has in fact improved beyond the level that this Commission has found checklist-compliant. Part II establishes that, as this Commission recently found, BellSouth's comprehensive metrics remain reliable and that BellSouth cannot and does

not shroud known data errors from scrutiny. Part III demonstrates that the few pricing issues raised by AT&T do not come close to showing a clear TELRIC violation by the Florida PSC. Part IV addresses some additional issues that commenters have raised. Other issues not addressed here are discussed in the attached affidavits.

I. AS THE COMMISSION HAS FOUND FOR ALL SEVEN OTHER BELLSOUTH STATES, BELLSOUTH'S REGION-WIDE OSS OFFER CLECS A MEANINGFUL OPPORTUNITY TO COMPETE IN FLORIDA AND TENNESSEE

BellSouth's region-wide OSS have been the subject of extraordinary scrutiny over the past few years. It has been the primary focus of attention both in this Commission's Georgia/Louisiana proceeding and in the very recent Five State proceeding. It has been the center of attention in the DOJ's evaluations. It has been the subject of two separate independent third-party tests, including the extraordinarily thorough Florida test. And it has been reviewed by *nine* separate state commissions. *See, e.g., FPSC OSS Consultative Opinion* at 84-86; *TRA Advisory Opinion* at 27. The Florida PSC and its Staff alone devoted countless resources to reviewing BellSouth's OSS -- hosting workshops, participating in more than 130 conference calls on the test, reviewing test results, holding hearings, and analyzing performance data. *See Application* at 6-9.

The result of every single one of these reviews has been the same. This Commission, the DOJ, and all nine state commissions have concluded that BellSouth offers nondiscriminatory access to its OSS. BellSouth, moreover, has successfully completed both third-party tests, satisfying 97% of the test criteria in the Florida test. The unanimous views of 11 different expert bodies and the very positive results of two different third-party tests provide extremely important evidence that BellSouth is, in fact, providing nondiscriminatory access to its OSS. *See DOJ*

Eval. at 6. And all this evidence does not even take into account BellSouth's most recent OSS improvements.

Moreover, both CLEC market-share and ordering volumes continue to grow, providing real-world evidence that CLECs do in fact have a meaningful opportunity to compete and that BellSouth's OSS is fully capable of supporting CLEC needs. *See BellSouth Stockdale Reply Aff.* ¶¶ 6-7 (Reply App. Tab H); *BellSouth Stacy Aff.* ¶ 425 (Application App. A, Tab I).

Indeed, CLECs themselves now do not challenge many aspects of BellSouth's showing that its OSS are nondiscriminatory. In general, except for change control, CLECs raise only a grab-bag of discrete issues. The vast majority of issues are raised by only one CLEC; many of those arguments are wholly unsupported by evidence; and a significant number have already been rejected by this Commission in prior orders. BellSouth addresses all these concerns below and/or in the attached affidavits of William Stacy (Reply App. Tab G), Alphonso Varner (Reply App. Tab I), Ken Ainsworth (Reply App. Tab A), and David Scollard (Reply App. Tab F).

At the outset, however, the fact that there is no longer any serious dispute as to many key aspects of BellSouth's OSS performance is significant. That is because, as the Commission has explained, "the determination of whether a BOC's performance meets the statutory requirements necessarily is a contextual decision based on the totality of the circumstances and information before the Commission." *GA/LA Order* App. D, ¶ 8. Accordingly, the Commission should not lose sight of the fact that most of the OSS issues have already been resolved in BellSouth's favor, and that the discussion is now limited to a small subset of largely unsupported CLEC claims.

Indeed, the *only* OSS issue that receives any sustained focus from commenters is change control. Change control, of course, involves BellSouth's collaborative efforts with CLECs to

improve BellSouth's already-compliant systems further in ways responsive to CLECs' needs. Even as to change control, moreover, both AT&T and WorldCom grudgingly acknowledge that -- as this Commission itself has expressly found, *see Five State Order* ¶ 182 -- BellSouth has improved over the past year. *See AT&T Bradbury Decl.* ¶ 8; *WorldCom Comments* at 1. WorldCom, moreover, concedes that most CLEC-prioritized changes will be implemented in 2003. *See WorldCom Comments* at 3.

The Commission should thus view the remaining arguments -- which, as BellSouth demonstrates below, lack merit -- against the backdrop of the facts (1) that CLECs can and do compete everyday in Florida and Tennessee; (2) that there is no serious dispute as to most of BellSouth's OSS compliance; and (3) that the key issue on which CLECs focus boils down to an argument about BellSouth's pace of improvement beyond the level that this Commission has found to be checklist-compliant. In that context, the only reasonable conclusion is that CLECs do have a meaningful opportunity to compete today in both Florida and Tennessee, and thus that BellSouth satisfies its OSS obligations.

A. Change Control

Overview of Continued CCP Improvement. The CCP at issue in this proceeding is unquestionably stronger than the process considered and recently found compliant by the Commission in the Five State and Georgia/Louisiana proceedings. *See Five State Order* ¶¶ 178-207; *GA/LA Order* ¶¶ 179-197. Indeed, in the *Five State Order*, the Commission both acknowledged important improvements since the Georgia/Louisiana proceeding and repeatedly recognized that there were further CCP improvements that could not be "decisional" because they were made too late to be considered in that application. The latter category of improvements include significant new performance metrics that track, among other things, how

quickly BellSouth responds to change requests, how many change requests are denied, and how long it takes BellSouth to fix defects, as well as BellSouth's successful implementation of Release 10.6 with few errors. *See Five State Order* ¶¶ 182, 191, 197, 200-201 (noting, for instance, that the Commission was "encouraged" by the Release 10.6 results, but that it was not the "basis for [its] decision").

BellSouth has now implemented still more CCP improvements. Perhaps most importantly, in direct response to the Commission's suggestion (*see id.* ¶ 196), BellSouth has recently decided to give CLECs approximately 80% of 2003 production capacity instead of the 50% to which they are entitled under the plan approved by the Florida and Georgia PSCs. *See BellSouth Stacy Reply Aff.* ¶ 11. Further, BellSouth has reached agreement with CLECs and implemented a go/no go recommendation process for releases. *See id.* ¶¶ 11, 34-39. And BellSouth has adopted the CLEC option for a 2003 release schedule and accepted the CLEC request for a new change management status for rejected requests. *See BellSouth Stacy Reply Aff.* ¶ 11.

Additionally, BellSouth has continued to show a pattern of compliance with CCP obligations. For instance, BellSouth met the 10-day interval for a response for 22 of 23 requests from June through September 2002. *See id.* ¶ 16. BellSouth is also continuing to meet change control intervals for documentation releases. *See id.* ¶ 20. In August 2002, moreover, BellSouth performed well on the new change management metrics. *See id.* ¶ 21.

BellSouth has also continued to work with CLECs under the close supervision of the Florida and Georgia PSCs. These meetings have already resulted in numerous improvements to the CCP, including the implementation of 14 of the CLECs' Top 15 change requests by the end of this year, and the adoption verbatim of the CLECs' definition of "CLEC-affecting change."

See id. ¶¶ 22-23 (listing improvements). BellSouth's collaboration with CLECs will continue under the supervision of the state commissions, which are fully capable of resolving disputes that the parties cannot resolve themselves. *See FPSC OSS Consultative Opinion* at 18 (“[W]e will continue to monitor the [CCP] . . . functions to ensure that BellSouth is providing service in a nondiscriminatory manner.”). This Commission as well will continue to monitor BellSouth's CCP compliance. *See Five State Order* ¶ 179 (directing the Enforcement Bureau's Section 271 Compliance Team “to monitor BellSouth's entire change management process, and specifically its performance under that process”).

Finally, BellSouth continues to devote substantial resources to producing high-quality software. *See BellSouth Stacy Reply Aff.* ¶¶ 79-96; *Five State Order* ¶ 200. By all objective standards, BellSouth's efforts have been successful. Release 10.6 was implemented with only nine CLEC-affecting defects, which translates into a “defect density” of only 0.00146 defects/function point. *See BellSouth Stacy Reply Aff.* ¶¶ 81-82. Working with the CLECs, BellSouth has also implemented many improvements to this process to ensure high-quality releases. These include expanding CAVE availability, establishing a testing web-site, broadening the test case catalog, and, as noted, enhancing CLEC participation through a go/no go recommendation process. *Id.* ¶¶ 33-39. Indeed, as discussed below, because of BellSouth's commitment to extensive pre-release testing, it has discovered flaws in Telcordia's software that make it necessary to seek CLEC input on options for delay of Release 11.0.

In sum, BellSouth has lived up to its commitment to work cooperatively with state commissions and CLECs to improve its CCP. That process is indisputably better now than it was when the Commission issued the *GA/LA* and *Five State Orders*. *See GA/LA Order* ¶¶ 179-197; *Five State Order* ¶¶ 178-207. Moreover, both the GPSC and the FPSC, as well as the

Commission, have indicated that they will exercise continued oversight over BellSouth's CCP. As discussed below and in William Stacy's reply affidavit, CLECs fail to offer any evidence sufficient to warrant a finding of checklist noncompliance, and the Commission should again find that BellSouth's CCP provides CLECs a meaningful opportunity to compete.

2003 Release Schedule. BellSouth and CLECs recently agreed to adopt the CLECs' proposed release schedule for 2003, which implements most CLEC priorities during that year, and largely in the order of prioritization. *See BellSouth Stacy Reply Aff.* ¶ 11; *WorldCom Comments* at 3. However, because some CLECs raise issues about the process through which that schedule was adopted, it is worth reviewing the facts on this issue.

On August 9, 2002, the FPSC ordered BellSouth to implement a new metric, CM-11, which measured the percent of change requests implemented within 60 weeks of prioritization. *See BellSouth Stacy Reply Aff.* ¶ 43. Seeking to address the FPSC's order,² BellSouth met with CLECs on September 5 and presented two options for the 2003 release schedule. *See id.* ¶ 44.³ CLECs thereafter submitted a counterproposal to BellSouth, and BellSouth and CLECs met again on September 13 to discuss the various proposals. As a result of this meeting, the CCP issued a ballot with two options -- one of which was the CLEC counterproposal -- from which CLECs could choose. *See id.* ¶ 47. Ultimately, CLECs voted to adopt their own proposal, which maintained the release of a new industry standard in 2003. *See id.*

² Although the FPSC's new metric applies directly only to requests prioritized after September 1, 2002, BellSouth reasonably understood that the FPSC wanted BellSouth to implement already-prioritized requests as soon as possible. *See BellSouth Stacy Reply Aff.* ¶ 49.

³ Contrary to AT&T's allegation, *see AT&T Bradbury Decl.* ¶ 26, BellSouth did not "threaten[]" CLECs that capacity for 2003 would be reduced every day that CLECs delayed their decision in selecting an option. Rather, BellSouth simply informed CLECs of the factual reality that, the sooner CLECs chose a release schedule, the more time BellSouth programmers could spend working on the release. *See BellSouth Stacy Reply Aff.* ¶ 45.

It is unclear why AT&T (at 3) argues that the process by which CLECs and BellSouth reached agreement on this result did not involve sufficient CLEC input. Far from acting “unilaterally,” BellSouth repeatedly considered and responded to CLEC concerns. BellSouth presented CLECs with two options for 2003, received a counterproposal from CLECs, and now is implementing that counterproposal, as requested by the CLECs. That process certainly gave CLECs an opportunity for “meaningful input” into the CCP, and it is fully consistent with BellSouth’s commitment to collaborate with CLECs on CCP issues. *New York Order* ¶¶ 106, 124; *Five State Order* ¶ 185.

Timely Implementation of CLEC-Prioritized Requests. As this Commission found in both the Georgia/Louisiana and the Five State proceedings, BellSouth’s performance in implementing eligible change requests once they are prioritized through the CCP is nondiscriminatory. *GA/LA Order* ¶ 193 (“BellSouth adheres to the Change Control Process by demonstrating that it implements change requests prioritized by competing carriers through the Change Control Process.”); *Five State Order* ¶¶ 192-197. By the end of 2002, BellSouth expects to have implemented 47 change requests for features, including 14 of the CLECs’ Top 15 change requests. *See BellSouth Stacy Reply Aff.* ¶ 13. As the Commission has recognized, BellSouth’s commitment on this point has resulted in the implementation of a large number of CLEC priorities and other enhancements in recent months. *See Five State Order* ¶ 194.

AT&T’s argument that change requests often take between two to three years to be implemented is false. In almost every example given by AT&T, AT&T overstates the relevant time period by measuring the time period when a change request is first submitted, rather than when it is prioritized, by CLECs. *See BellSouth Stacy Reply Aff.* ¶ 76. The FPSC recognized that this was the proper start date in implementing CM-11. *See id.*

Nor is it the case that BellSouth deviates impermissibly from the priorities set by CLECs. As the CCP document contemplates, the process of slotting change requests into a specific release is necessarily iterative and operates within certain real-world constraints. *See id.* ¶¶ 56-67. As William Stacy explains in detail, the process must take into account, among other things, the amount of capacity for each of the components of BellSouth's software. *See id.* ¶¶ 59-61. Thus, although BellSouth starts from the CLEC priority list (and in fact is implementing requests largely in priority order throughout 2003), some higher priority items may be "bumped" to a later release because there is not sufficient capacity in the relevant software component for the particular release. *See id.* ¶¶ 61-66. Although BellSouth must manage the process to account for these constraints, BellSouth's clear intent is to "adhere[] to scheduling CLEC-initiated change requests in order of CLEC prioritization subject to release capacity component constraints." *Id.* ¶ 67. BellSouth's commitment on that point is reflected in the fact, noted above, that CLECs ultimately were able to vote on and adopt their own proposed release package, which implements many high priority items in 2003.

BellSouth Produces Quality Software. This Commission found in the *Five State Order* that "the quality of BellSouth's software releases has not impaired competitors' access to BellSouth's OSS. To the contrary, . . . the quality of BellSouth's software releases has slightly improved, not deteriorated, since the release of the *BellSouth Georgia/Louisiana Order*." *Five State Order* ¶ 198.

That conclusion remains correct today. The record demonstrates that BellSouth produces software with a minimal number of defects, and that BellSouth is improving in this regard. *See BellSouth Stacy Reply Aff.* ¶¶ 81-82; *Five State Order* ¶ 200 (stating that the Commission is

“encouraged” by the fact that Release 10.6 “contains proportionately fewer defects than other recent releases”).

AT&T (at 13-14) seeks to undermine BellSouth’s showing on this point by criticizing the methodology used by Q/P Management, a company that specializes in evaluating software quality that measured the quality of BellSouth’s software against industry norms. *See BellSouth Stacy Reply Aff.* ¶ 80.⁴ As an initial matter, AT&T’s statement that Q/P Management failed to include applications provided by Accenture is baffling. Accenture’s software is included in Q/P Management’s report. *See id.* ¶ 83. AT&T also complains about Q/P Management’s reliance on the “defects per function point” measurement. Function point counting is the most commonly used measure of software size for telecommunications companies, and the only one supported by a governing standards body. *See id.* ¶ 85. AT&T also criticizes Q/P Management for not using 90 days worth of data. Even if that were a valid criticism (and it is not), data for Release 10.5 have now been collected for 90 days and confirm Q/P Management’s prior findings. *See id.* ¶ 87. Lastly, AT&T argues that Q/P Management incorrectly calculated the “defects per function point” measure. *See AT&T Bradbury Decl.* ¶¶ 58-64. To the contrary, Q/P Management conformed to the industry-standard definitions for counting function points, counting defects, and calculating the “defects per function point” ratio. *See BellSouth Stacy Reply Aff.* ¶ 88.

Precisely because BellSouth is committed to providing high-quality software and minimizing defects -- and because it has enhanced pre-release testing in the ways discussed above and in prior filings -- BellSouth is taking action to address the high number of defects that

⁴ Despite AT&T’s criticisms of Q/P Management, AT&T itself has recently provided BellSouth with references regarding Q/P Management’s capabilities in benchmarking. *See BellSouth Stacy Reply Aff.* ¶ 86.

it is finding in the pre-release testing of the Release 11.0 software that BellSouth has received from its independent software vendor, Telcordia. Release 11.0 is currently scheduled to go into production on December 8, 2002. *See id.* ¶ 103. BellSouth has escalated this issue to the highest levels at Telcordia, but it remains concerned that the software is not on track to be of acceptable quality on the release date. *See id.* Consistent with the change control plan, BellSouth is offering CLECs two options for delaying this release. *See id.* ¶ 107. The first option would allow the release to be implemented on December 29, but without the UNE-to-UNE bulk migration feature, which would be implemented on March 30, 2003. Alternatively, CLECs could choose to implement the entire release on January 19, 2003. *See id.* ¶ 108. In either event, BellSouth will offer CLECs an interim manual spreadsheet solution for the UNE-to-UNE bulk migration functionality in the interim period. *See id.* ¶¶ 112-114. This functionality is similar to what is provided by SBC and Verizon. *See id.* ¶ 112. In sum, while BellSouth expected better performance from its vendor, it is a testament to the efficacy of BellSouth's pre-release testing that BellSouth has been able to identify the issues and provide CLECs with options for appropriate mitigation strategies.

BellSouth Fixes Defects in a Timely Fashion. Contrary to AT&T's suggestion (at 13), BellSouth corrects defects in a timely fashion. Most importantly, AT&T's data show that BellSouth has fixed all recent Severity 2 (High Impact) defects within 10 days. *See BellSouth Stacy Reply Aff.* ¶ 99. BellSouth has also already fixed 16 additional Severity 3 (Medium Impact) and Severity 4 (Low Impact) defects, and 6 of the 7 remaining Severity 3 and 4 defects that are considered late are scheduled for implementation in Release 11.0. *Id.* ¶ 101. Additionally, BellSouth informed the Florida PSC that some of these defects could not be fixed

until Release 11.0 because the FPSC's new order was issued in the midst of a release cycle. *Id.* ¶ 102.

Other Change Control Issues. Covad (at 16-17) argues that BellSouth fixes problems that concern BellSouth before it fixes problems that concern CLECs. As evidence, Covad cites change requests CR0621, submitted by Covad, and CR0766, submitted by BellSouth, and states that BellSouth took more than six months to schedule CR0621 but scheduled CR0766 in a week. Covad's argument is meritless. As an initial matter, because both CR0621 and CR0766 fixed defects that were affecting CLECs, Covad's example proves nothing. *See BellSouth Stacy Reply Aff.* ¶ 200. In any event, a simple review of the facts demonstrates that the change requests cited by Covad were submitted under very different circumstances, and that the CCP operated as expected. *See id.* ¶¶ 196-201. Unlike CR0766, CR0621 submitted by Covad required BellSouth to perform substantial work to: (1) determine specifically what Covad was requesting; (2) determine whether Covad's request was for a defect or for a feature; and (3) perform an extensive work effort that involved many of BellSouth's systems. *See id.* ¶ 197. CR0766, in contrast, involved a LNP defect for which there was capacity in an upcoming release, and which required less work effort. *See id.* ¶ 200. Thus, contrary to Covad's suggestion, the facts relating to these specific requests do not suggest that BellSouth fixes problems that concern BellSouth first.

B. Regionality and Third-Party Testing

Supra (at 12) alleges that BellSouth's OSS are not regional because, "according to" unspecified "recent BellSouth documents," the LENS interface is not the same in all nine states in BellSouth's region. Supra does not identify which BellSouth documents it is relying upon, nor does Supra explain how LENS is allegedly different across state lines. More importantly,

Supra's unsupported argument is contradicted by a mountain of evidence. That evidence includes detailed affidavits provided by BellSouth with its Application (including the Stacy, Heartley, Scollard, and Ainsworth affidavits), two prior orders of this Commission, and the conclusions of all the state commissions in BellSouth's region that have ruled on this issue. Importantly, moreover, BellSouth's regionality showing is supported by the same comprehensive third-party audit by PricewaterhouseCoopers that this Commission has twice relied upon. *See BellSouth Stacy Reply Aff.* ¶ 130. *See also Five State Order* ¶ 133; *GA/LA Order* ¶¶ 110- 111; *TRA Reconsideration Order* at 6.⁵ In light of all this evidence, Supra's unsupported argument provides no basis for this Commission to depart from its clear prior holdings, and it should be rejected.

Covad raises an equally meritless complaint that, because BellSouth failed to perform a third-party test in Tennessee, there is no test to support BellSouth's Application for that state. *See Covad Comments* at 4. Because BellSouth's OSS are regional, the Florida and Georgia third-party tests (both of which were part of the evidentiary record in Tennessee) provide substantial evidence that BellSouth's OSS in Tennessee are nondiscriminatory. *See BellSouth Stacy Reply Aff.* ¶¶ 5-6. Indeed, for that very reason, this Commission has twice relied on BellSouth's Georgia test to support BellSouth's applications for other states. *See GA/LA Order* ¶ 11; *Five State Order* ¶ 134.

⁵ Order Granting Reconsideration of and Modifying the Order Resolving Phase I Issues of Regionality, *Docket to Determine the Compliance of BellSouth Telecommunications, Inc.'s Operations Support Systems with State and Federal Regulations*, Docket No. 01-00362 (TRA Aug. 8, 2002) ("*TRA Reconsideration Order*") (App. E – TN, Tab 56).

C. Pre-Ordering/Access to Loop Make-Up Information

The Commission held in both the *GA/LA Order* and the *Five-State Order* that BellSouth offers CLECs nondiscriminatory access to loop make-up (“LMU”) information. *See Five State Order* ¶¶ 141-143; *GA/LA Order* ¶¶ 112-116. Nevertheless, Covad argues that BellSouth discriminates in this regard. In particular, Covad alleges that it does not have access to some “raw data” underlying BellSouth’s systems. *Covad Comments* at 8-10. Covad is simply wrong. BellSouth provides Covad with access to all of the “raw” LMU data that it seeks through both LFACS and LQS. *See BellSouth Stacy Reply Aff.* ¶ 163.

Mpower (at 8-10) argues that inaccuracies in BellSouth’s loop qualification databases are discriminatory. This claim is both wrong and legally irrelevant. As this Commission explained in rejecting this precise argument in the *Five State Order*:

The Commission has never required incumbent LECs to ensure the accuracy of their loop qualification databases. Instead, the Commission requires that, to the extent the incumbent LEC has compiled loop qualification information for itself, it is obligated to provide competitive LECs with nondiscriminatory access to the same information. Because BellSouth complies with this requirement, we find that . . . claims regarding the alleged inaccuracy of BellSouth’s LFACS database, even if true, do not warrant a finding of noncompliance with checklist item 2.

Five State Order ¶ 142 (footnote omitted). *See also BellSouth Stacy Reply Aff.* ¶¶ 147-152.

Mpower (at 9-10) also incorrectly argues that BellSouth’s pre-ordering functionality is discriminatory because BellSouth requires Mpower to obtain a Facility Reservation Number (“FRN”) to place an order. As explained in the reply affidavit of William Stacy, BellSouth does not require CLECs to obtain an FRN to order xDSL. For example, BellSouth provides the UCL-ND product as an option that does not require a CLEC to obtain an FRN to place an order for an xDSL compatible loop. *See BellSouth Stacy Reply Aff.* ¶ 160. These options are the same ones that BellSouth uses to serve the same end users. *See id.*

In any event, Mpower raised both this argument and its argument about database inaccuracies in a September 13, 2002 letter to the Enforcement Bureau. *See id.* ¶¶ 147-153 & Exh. WNS-20. BellSouth filed a response on October 4 refuting all of Mpower's arguments in detail. *See id.* & Exh. WNS-21. That proceeding provides a fully adequate forum to address these issues. As the Commission has repeatedly stated, given the expedited nature of a section 271 proceeding, the "section 271 process simply could not function if we were required to resolve every interpretive dispute between a BOC and each competitive LEC about the precise content of the BOC's obligations to its competitors." *Five State Order* ¶ 218. Thus, these issues are more appropriately examined in a complaint proceeding before the Commission, and the Commission should not resolve them here. *Id.*⁶

D. Ordering and Provisioning

Parity with BellSouth Retail and Other Covad Ordering Claims. Covad makes several claims that BellSouth offers capabilities to its Network Service Provider ("NSP") customers that it does not offer to CLECs. The DOJ cites Covad's Comments, noting that "Covad has expressed concern that new OSS features have recently been implemented that would permit BellSouth's retail DSL business to process orders through the OSS in a manner not available to competing carriers." *DOJ Eval.* at 8. The DOJ properly notes, however, that it did not have "BellSouth's formal response" on this issue and thus could not complete its analysis. *Id.* at 8-9. BellSouth will now provide that response, which should allow the Commission to satisfy itself that there is no arguable discrimination here.

⁶ Supra's claim (at 15) that orders submitted through LENS are not "error checked with any efficiency or completeness" is likewise incorrect. LENS is a graphical user interface for TAG and thus has the on-line editing capabilities that TAG has. *See BellSouth Stacy Reply Aff.* ¶¶ 133-137.

Covad has its facts wrong. Covad (at 5-6) argues that BellSouth discriminates against CLECs by requiring them to validate the identity of a customer using both a telephone number and an address on the LSR, whereas NSPs need to use only a telephone number. In fact, BellSouth delayed the implementation of the removal of the address edit for NSP customers until further notice. *See BellSouth Stacy Reply Aff.* ¶ 183. Thus, contrary to Covad's claims, BellSouth and CLECs must follow the same procedures when validating orders. *See id.* In any event, BellSouth's CLEC customers already have the ability to process an order using a telephone number only through LENS and TAG. *See id.* ¶ 184.

Covad is similarly incorrect in asserting that, unlike UNE customers, BellSouth's NSP customers can place so-called "to and from" orders. *Covad Comments* at 7-8. Again, the simple answer is that BellSouth does not offer this capability. On October 9, 2002, BellSouth delayed this functionality until after a comparable feature is put in place for CLECs. *See BellSouth Stacy Reply Aff.* ¶ 187.

Covad also raises two other ordering claims that have been expressly rejected in prior proceedings. First, Covad (at 16) argues that BellSouth does not provide it with access to "pseudo-circuit numbers." In the *Five State Order*, the Commission dismissed the same claim. It held that it did not have sufficient information to make a determination of the competitive impact of this issue, and that in any event a fix was scheduled for Release 11.0. *See Five State Order* ¶ 165. Covad again provides no evidence of the competitive impact of this defect, and KPMG (now BearingPoint) has in fact concluded that this issue does not have a significant competitive impact. *See BellSouth Stacy Reply Aff.* ¶¶ 192-196.

Second, Covad (at 17-24) once again complains that BellSouth has failed to mechanize the ordering of certain DSL loops. This argument has now been rejected twice. As the

Commission explained this September in the *Five State Order*, “[g]iven the fact that the total number of these types of loops in each of the states is low, and our finding in the *BellSouth Georgia/Louisiana Order* that a high percentage of loops can be ordered electronically, we cannot agree with Covad that BellSouth’s ordering systems deny carriers a meaningful opportunity to compete.” *Five State Order* ¶ 155 (footnote omitted); *accord GA/LA Order* ¶¶ 149-150. This reasoning remains valid. *See BellSouth Stacy Reply Aff.* ¶¶ 202-205.

Treatment of Connecting Facility Assignments as Provisioning. AT&T complains about the fact that BellSouth treats AT&T connecting facility assignments (“CFAs”) as provisioning requests, not maintenance items. *See AT&T Comments* at 20-21. As explained in detail in the reply affidavit of Ken Ainsworth, BellSouth’s policy is entirely appropriate and is necessary to ensure accurate CFAs and thus reduce maintenance issues. *See BellSouth Ainsworth Reply Aff.* ¶ 20. In any event, this policy has no competitive impact. *See id.* Additionally, and in any event, BellSouth is working on a maintenance process that addresses this situation, which again demonstrates BellSouth’s willingness to work with CLECs to address their concerns. *See id.*

TAG Ordering. Mpower (at 6-8) raises several arguments concerning the efficacy of BellSouth’s TAG interface. As an initial matter, this is the same exact argument that Mpower raised in its supplemental comments in the Georgia/Louisiana proceeding.⁷ But, as the Commission concluded in both the *GA/LA Order* (¶ 135) and the *Five State Order* (¶ 144) after thoroughly evaluating BellSouth’s ordering interfaces, BellSouth provides nondiscriminatory access to its ordering systems through TAG and other available interfaces.

⁷ *See* Mpower Comments at 6-8, *Georgia/Louisiana Proceeding*, CC Docket No. 02-35 (filed Mar. 4, 2002).

Moreover, Mpower's arguments about TAG's ineffectiveness are refuted by the success of other CLECs utilizing that interface; in 2002, more than 70 Operating Carrier Numbers ("OCNs") used TAG to place more than 65,000 orders in August alone. *See BellSouth Stacy Reply Aff.* ¶ 143.⁸ Moreover, performance data for Mpower itself belie this claim. For example, in August 2002, a high percentage of Mpower's data-circuit orders submitted through TAG flowed through without manual intervention. *See id.* ¶ 142. That performance does not suggest a system that is "not even minimally functional" for data orders, as Mpower argues. *Mpower Comments* at 6.

Mpower (at 6) also argues that TAG is ineffective because the only way to order service for a local customer with a new service address is to submit a manual order. But this is true for both BellSouth and CLECs. Because BellSouth's Regional Street Address Guide ("RSAG") will not contain the new service address, that address must first be added to RSAG before the order can be processed. *See BellSouth Stacy Reply Aff.* ¶ 146. BellSouth has established processes for the identification of a "new address" condition and for the prompt resolution and population of new address information in RSAG. *See id.*

Partial Migrations. Mpower (at 10-11) incorrectly argues that BellSouth fails to offer nondiscriminatory access to "partial migrations," which are defined as the migration of one or more telephone lines to a CLEC with at least one line remaining with the ILEC. As an initial matter, this Commission has already rejected Mpower's argument in the Georgia/Louisiana proceeding. *See GA/LA Order* ¶ 165 ("Based on our findings that BellSouth's performance data

⁸ Mpower's assertion (at 7) that Electronic Data Interchange ("EDI") was introduced to replace TAG is baffling. EDI was implemented in December 1996, approximately two years prior to the implementation of TAG pre-ordering in August 1998 and TAG ordering in November 1998. *See BellSouth Stacy Reply Aff.* ¶ 144.

demonstrates that BellSouth handles competitive LEC orders in a nondiscriminatory manner, and a lack of evidence in the record to warrant a finding that BellSouth's ordering process for such special circumstances impedes a competitive LEC's ability to compete in a meaningful manner, we cannot conclude that this process constitutes systematic discriminatory treatment of competitive LEC orders."'). Mpower does not cite any new facts that warrant revisiting the issue. Its claim should be rejected again. *See Five State Order* ¶ 155 (rejecting claim that had been addressed in prior order, where no change in circumstances was shown).

In any event, Mpower's argument is meritless. As BellSouth previously explained in the Georgia/Louisiana proceeding, there are a number of partial migration scenarios under which multiple orders are necessary to ensure the proper migration of the customer's accounts. *See BellSouth Stacy Reply Aff.* ¶¶ 168-175; *see also GA/LA Order* ¶ 165 n.609. Contrary to Mpower's suggestion (at 11) that BellSouth has "no business rules on partial [migrations]," BellSouth has sent at least five carrier notification letters to CLECs on this issue and devoted a page of the Local Exchange Ordering Guide to it. *See BellSouth Stacy Reply Aff.* Exh. WNS-25. Moreover, the delays that Mpower alleges could be avoided if Mpower would submit the appropriate LSRs, which would result in no delays and no rejections. *See id.* ¶ 175. In sum, Mpower has again failed to demonstrate that BellSouth's policies in the "special circumstances" of partial migrations deny CLECs a meaningful opportunity to compete. *GA/LA Order* ¶ 165.

Scalability. *Supra* (at 14) argues that BellSouth's OSS are unable to handle the volume of orders that it receives. *Supra* is incorrect. This Commission has twice found BellSouth's OSS to be "sufficiently scalable to handle reasonably foreseeable commercial volumes of orders in a nondiscriminatory manner." *Five State Order* ¶ 153; *accord GA/LA Order* ¶ 152. *Supra*

provides no reason for the Commission to depart from this analysis here. *See also BellSouth Stacy Reply Aff.* ¶¶ 178-181.⁹

FOCs and Reject Timeliness. In both the *Five State Order* and the *GA/LA Order*, the Commission found that BellSouth was providing CLECs with reject notices and firm order commitments (“FOCs”) in a timely and nondiscriminatory fashion. *See Five State Order* ¶¶ 145-150; *GA/LA Order* ¶¶ 136-142. That remains the case today. Moreover, performance data presented with BellSouth’s Application confirmed that BellSouth’s overall performance provides CLECs with nondiscriminatory access to rejects and FOCs. *See, e.g., BellSouth Varner Aff.* Exh. PM-2 ¶¶ 38-47, Exh. PM-3 ¶¶ 38-45 (Application App. A, Tab K). Additionally, as demonstrated in detail in the attached reply affidavit of Alphonso Varner, a CLEC complaint about misses on some submetrics does not demonstrate that BellSouth is not providing satisfactory performance. For instance, in some cases the margin of the misses is very small, and in others the volume of orders is quite small. *See BellSouth Varner Reply Aff.* ¶¶ 124-126. In all events, CLECs are not being denied a meaningful opportunity to compete.

Service Order Accuracy. This Commission found BellSouth’s service order accuracy performance to be nondiscriminatory in both the Five State and the Georgia/Louisiana proceedings. *See Five State Order* ¶ 159; *GA/LA Order* ¶ 159. BellSouth continues to be committed to meeting the needs of the CLECs by making sure that LSRs are converted into service orders accurately, and continues to work with its service representatives to improve the quality of the service orders that they produce. *See BellSouth Varner Reply Aff.* ¶ 72.

⁹ Supra’s argument (at 18) that it could not obtain UNE combinations prior to June 2001 is irrelevant to BellSouth’s current compliance, and in any event involved an interconnection agreement issue, not a question about BellSouth’s OSS capabilities. *See BellSouth Stacy Reply Aff.* ¶¶ 138-141; *see also id.* ¶¶ 176-177 (describing high volume of mechanized ordering of UNE-P and noting 88.6% flow-through rate in recent data).

BellSouth's combined accuracy rate in August was 99.1%, and its accuracy for non-mechanized orders was 97.3%. *See id.* Of the eight submetrics that did not meet the 95% benchmark for two of the three months from June through August, seven of them were either two or three service orders from meeting the benchmark during the period for at least one of the two months. *See id.* Combined, these submetrics represent 0.4% of orders processed. *See id.*

E. Billing

This Commission has twice found the same region-wide billing OSS that BellSouth employs in Florida and Tennessee to be nondiscriminatory. *See Five State Order* ¶ 174; *GA/LA Order* ¶ 173. That finding was recently confirmed by both the FPSC and the TRA. *See FPSC OSS Consultative Opinion* at 30; *TRA Advisory Opinion* at 27. Moreover, KPMG's third-party test in Florida found all 87 test criteria related to billing satisfied. *See FPSC OSS Consultative Opinion* at 30. Despite all of this, CLECs have raised a few complaints about BellSouth's billing OSS.

First, *Supra* (at 29) argues that BellSouth denies CLECs unbundled access to BellSouth's billing OSS, and is therefore unable to verify its bills. *Supra*'s argument is meritless. In compliance with checklist requirements, BellSouth provides CLECs with nondiscriminatory access to its billing OSS through the Optional Daily Usage Files ("ODUF") and Access Daily Usage Files ("ADUF"). *See BellSouth Scollard Reply Aff.* ¶ 3. ODUF contains usage records for billing calls placed by end users for usage events associated with resold lines, interim number portability accounts, and unbundled switch ports. *See id.* ADUF contains usage records for billing interstate and intrastate access charges to other LECs and interexchange carriers ("IXCs") for calls originating from and terminating to unbundled switch ports. *See id.* In addition, BellSouth offers reseller CLECs the Enhanced Optional Daily Usage File ("EODUF") records

along with their ODUF records for usage from flat-rate-based calls. *See id.* This is the same information that BellSouth provided at the time of its prior, successful applications, and that this Commission has concluded provides competing carriers “with all the information necessary to compete.” *GA/LA Order* ¶ 173. Supra provides no reason for this Commission to determine that this information is suddenly inadequate.

Supra (at 30) is also incorrect in arguing that BellSouth’s placement of a small percentage of orders in a “hold file” presents a checklist-compliance issue. As Supra acknowledges, the Commission addressed this issue in the Georgia/Louisiana proceeding, where the Commission explained that “BellSouth demonstrates that this same process is used for orders for BellSouth retail customers and there is no evidence of a systemic problem.” *GA/LA Order* ¶ 175. That remains the case today. *See BellSouth Scollard Reply Aff.* ¶ 5. Additionally, contrary to Supra’s claim, the relatively small percentage of orders placed in the hold file are generally resolved within one or two days. Indeed, BellSouth employs 11 accounting assistants to clear hold file errors. *See id.* Finally, as was the case when the Commission issued the *GA/LA Order*, the hold file process is still the same for wholesale and retail orders, and there is no evidence of a systematic problem. *See id.*

Covad (at 12-14) argues that BellSouth begins to bill Covad before provisioning a line-shared loop. As the Commission found in the *Five State Order* (¶ 167), the amounts in controversy here (generally, \$.02 to \$.06 per line) are too low to be “competitively significant,” and BellSouth has offered to refund any excess charges to Covad. Therefore, the Commission concluded that “Covad’s allegation of premature billing does not warrant a finding of checklist noncompliance.” *Id.* That finding applies here as well. *See BellSouth Scollard Reply Aff.* ¶¶ 6-

7. Additionally, BellSouth has scheduled implementation of corrections for this issue. *See id.*

¶ 8.

Finally, Mpower (at 14) argues that BellSouth fails to provide it with accurate or timely bills. Mpower, however, fails to provide any supporting evidence to document these allegations. Such unsupported claims are not entitled to any weight in this proceeding. *See, e.g., Texas Order* ¶ 50; *GA/LA Order* ¶ 168; *id.* ¶ 267; *Massachusetts Order* ¶ 73. That is particularly the case given both the state commissions' findings on this issue and BellSouth's satisfaction of every billing criterion in the Florida third-party test. In any event, Mpower is challenging a relatively small percentage of its bills, and, in the past, the majority of such billing disputes with Mpower have been resolved in BellSouth's favor. *See BellSouth Scollard Reply Aff.* ¶ 11; *see also id.* ¶¶ 12-13 (addressing related Mpower claims); *Pennsylvania Order* ¶ 26 n.93 (a "nominal level of dispute over wholesale billing" "is to be expected in any large-volume, carrier-to-carrier relationship").¹⁰

II. AS THE COMMISSION HAS TWICE FOUND THIS YEAR, BELL SOUTH PROVIDES ACCURATE AND RELIABLE PERFORMANCE DATA

This Commission has carefully scrutinized BellSouth's performance data in both the Georgia/Louisiana proceeding and the recent Five State proceeding. As a result of that scrutiny,

¹⁰ Mpower also alleges that the fact that BellSouth has lowered *retail* rates to customers in some areas in response to competition somehow raises an issue under checklist item 2. *See Mpower Comments* at 15-16. Mpower does not explain how this issue implicates checklist item 2. In any event, lower retail prices are, of course, a product of competition and should be encouraged. It would be perverse indeed for this Commission to deny a section 271 application because vibrant competition in a BOC's local markets led the BOC to lower its prices to consumers. Moreover, Mpower has not proven that BellSouth's retail rates create a price squeeze, or that BellSouth's rates are below BellSouth's costs and thus predatory. In any event, similar complaints are now before the Florida PSC, which provides the appropriate forum to address such retail rate issues. *See BellSouth Ruscilli/Cox Reply Aff.* ¶¶ 36-43 (Reply App. Tab E); *cf. GA/LA Order* ¶ 286.